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FBI defenders are not only from the right

A fortnight ago, a letter went out to a few hundred prominent Americans signed by William E. Simon, former secretary of the treasury, as spokesman for an organizing committee comprising himself, former Ambassador Clare Boothe Luce and former Sen. James L. Buckley. They had set up a "Citizens Legal Defense Fund for the FBI," catalyzed by the indictment of FBI agent John J. Kearney, who is scheduled to be tried for illegally tapping the telephones and otherwise interfering with the privacy of persons suspected of complicity with the Weathermen's Underground which, during the late Sixties and early Seventies, pursued a policy of blowing up random Americans in order to express dissent from American policies.

Mr. Simon and his associates interpret the decision by the Justice Department to go after Kearney as an expression of a general assault on the FBI and the CIA, an act of harassment; and his request for funds to help Kearney (he asked that checks be sent to Suite 608, 95 Madison Ave., New

York, N.Y. 10016) has been answered by an ecumenical avalanche of persons who believe that the harassment of the FBI is exactly what is afoot.

One would expect Sen. Goldwater, Cmdr. Lloyd Bucher and Phyllis Schlafly to respond to Mr. Simon's appeal. But what about (to mention only a few) Charles Addams, the cartoonist; Murray Baron, one of the founders of the Liberal Party of New York; Allen Drury, the novelist; Loren Eiseley, the philosopher of science; Eric Hoffer, the fiercely individualistic longshoreman; Frank Borman, the astronaut-president of Eastern Airlines; Peter Hurd, the artist; Dina Merrill, the entertainer.

And, the biggest catch of the lot, Leon Jaworski, special prosecutor in the Watergate investigation, whose activities resulted in the resignation of Richard Nixon and the trial and conviction of the most prominent members of his political and administrative entourage?

Are these people condoning illegality? We must assume that the ques-

tion is more complicated than that.

We do not know what went on in the grand jury room where agent Kearney appeared without counsel. We do know that he was regularly brought down to Washington to be decorated for superior performance of duty. We know that in 1972 the Supreme Court distinguished between what the attorney general can legally do if he is on the track of foreign espionage or intelligence, and what he can do in domestic situations — in the latter, his authority is more clearly circumscribed.

We do not know whether Kearney or his superiors had reason to suspect that there might be a foreign connection. Nor do we know whether Kearney's instructions from his superiors were explicit or merely implicit.

On the broader question of harassment of the FBI, we are reminded that candidate Carter pledged that justice would be depoliticized if he became president. The first thing he did on achieving office was to reach a political judgment in respect of the draft evad-

ers and deserters — they were following the dictates of their conscience. Could as much be said for agent Kearney?

My favorite of the whole lot is Philip Agee. His most recent contribution to the United States has been the publication in a left Greek journal of the whole roster of alleged CIA agents and contacts working there. Agee proved too much for the British, who finally kicked him out. He will return to the United States and, so far as one knows, proceed with impunity, the hero of the antinomian set.

I must confess that I think of Agee as Lord Birkhead did of the British traitor Philby, about whom he wrote, "We shall never know how many agents were killed or tortured as a result . . . [it appears now] we must, alas, abandon any wistful dreams of seeing this little carrion gibbeted. One has, also alas, the feeling that if Mr. Philby were to reappear in England, he would go over to Oxford or somewhere to lecture on the transcendental cause he served, and be instantly acclaimed as a prophet of the

new and the sublime."

A country that is indifferent to the Agees and Philbys, but prosecutes its Kearneys, is out of kilter. That is the reason why men and women from the left and from the right have come together in protest.